

OCA 86-3901
18 November 1986

NOTE FOR:

AGC/DO

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FROM:

Legislation Division
Office of Congressional Affairs

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SUBJECT: HPSCI Covert Action Notification Procedures

Attached is the latest revision to the HPSCI covert action notification procedures. The revisions reflect the discussions held in OGC on 14 November 1986.

We agreed last week that you would attempt to expeditiously coordinate this proposed draft with the DO. We would then discuss this draft with Mike O'Neil to determine whether the changes made in it were acceptable.

Please give me a call when you have finished your coordination within the DO so that we may arrange a meeting with the HPSCI staff to discuss the procedures.

Attachment as
stated

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PROCEDURES GOVERNING COVERT ACTION REPORTING TO THE
HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE (HPSCI)

The Director of Central Intelligence and the House Permanent Select Committee on Intelligence agree that a planned intelligence activity may constitute a "significant anticipated intelligence activity" under section 501 of the National Security Act of 1947 (the "Intelligence Oversight Act of 1980") even if the planned activity is part of an ongoing covert action operation within the scope of an existing Presidential Finding pursuant to the Hughes-Ryan Amendment (22 U.S.C. 2422). Set out below are the types of activities conducted pursuant to a previously issued Finding on which the DCI and the HPSCI agree to prior notification and explanation to the Committee.

- (1) Activities which have been approved by the President, the National Security Council, the National Security Planning Group, or any other higher authority from which the DCI must seek approval;
- (2) The use of any means, specifically including but not limited to the employment of force, that departs from the scope, described to the Committee, of the program implementing a Presidential Finding;
- (3) The initial use or transfer to foreign elements of U.S. military or non-CIA governmental equipment, except for de minimis, inconsequential use or transfers, and any additional use or transfers which would change the scope, objectives, or risks of covert action program (except for routine logistical and administrative support activities);
- (4) Material developments or changes in objectives of a covert action program or in the means of achieving the objective or the program, including but not limited to:
 - A. Substantial change in the participation of U.S. military or non-CIA Governmental personnel, CIA staff or contract employees, or unilaterally controlled United States persons or foreign nationals, in paramilitary operations which would change the scope, objectives or risk of the paramilitary operation;

B. Any operation or activity intended to affect the processes by which any nation selects its form of government or the leadership of its government, including elections;

C. Any operational activity which is aimed at events in the United States which is a part of, or in support of, a covert action program, (except for routine logistical and administrative support activities including training, cover and routine operational meetings);

(5) Any substantial involvement of foreign governments in the conduct or support of CIA covert action activities.

For all significant covert action activities, the DCI will provide the Committee through an "advisory" with:

- o The text of any Presidential Finding (unless previously provided), and
- o The substance of any scope paper and any other descriptive material accompanying or related to a Presidential Finding, and any changes thereto.

When the DCI informs the Committee of any matter described above, he shall provide with respect to that matter an evaluation of all important elements relating to the matter, including, but not limited to: (a) operational risks, (b) foreign relations risks, (c) expected duration, (d) cost required, (e) sources of funding, and (f) special legal issues relating to the possible repercussions under treaties, international agreements or international law or raised under U.S. law.

The HPSCI may, in connection with each ongoing covert action, communicate to the DCI the kind of activities that it considers should be reported to the Committee. The DCI will independently take steps to ensure that the HPSCI is advised of activities that the DCI reasonably believes should be reported to the Committee.

Nothing in these Procedures should be construed as an attempt to depart from the terms and conditions of Title V of the National Security Act of 1947. Neither the Committee nor the DCI seeks by signing these Procedures to alter any authority conferred by the Constitution on either the Executive or Legislative branches.

These Procedures contemplate scrupulous protection of covert action information from compromise.

These Procedures will remain in force until modified by mutual agreement.

Chairman, HPSCI

DCI

Date

Date

Ranking Minority Member, HPSCI

Date